

**Concurrence of Commissioner Mark J. Ferron on Item 33/33a/33b (D.12-07-021)**  
**Denial of Certificate of Public Convenience and Necessity**  
**for Sacramento Natural Gas Storage**

In many ways, this decision was a close call, because we are evaluating two very small risks that are both difficult to quantify. On the one hand, the Sacramento Natural Gas Storage project would contribute to Sacramento Municipal Utility District's (SMUD) natural gas capacity needs, and thus provide some measure of increased reliability. On the other hand, as all three of decisions point out, there are significant, unavoidable environmental and safety risks to the existing Avondale Glen-Elder neighborhood and surrounding areas. These too are difficult to quantify or predict.

In all applications for a Certificate of Public Convenience and Necessity (CPCN), the burden of proof is on the applicant to demonstrate that the project is needed. In the past, this need has largely been **presumed** based on the 1993 Gas Storage Decision, which requires only that demand be demonstrated by the showing of an agreement between the storage utility and its customers for expanded storage service. However, given the severity of the risks of the proposed project and the relative health of today's statewide gas supply, I believe that we must go beyond this level of presumed need.

As both Commissioner Simon's and Commissioner Florio's alternates note, our responsibilities as the lead agency under CEQA require us to find "overriding considerations" that justify our approval of a project since there are significant and unavoidable impacts identified in the EIR. The justification for the approval of the Project in both the Proposed Decision and Alternate 33a is largely based on the local reliability for SMUD. While the Project no doubt would provide additional flexibility and reliability in the event of a curtailment of gas supplies, the probability of a curtailment is small. This storage facility may be quite desirable, but it clearly is not essential, and hence, in my view, there is no "overriding consideration" in favor of the project.

The final factor considered in Item 33b, which is absent from Items 33 and 33a, is the Commission's new responsibilities under Public Utilities Code 963(b)(3), which requires the Commission to consider the safety of the public and gas corporations as a "top priority." I believe that this is particularly relevant here, where the proposed project is located above a densely populated, residential neighborhood. To my knowledge such a location for a new facility is almost without precedent, and seems to be at variance with the gas industry's "best practice" from a safety perspective.

So in conclusion, I am voting today for Item 33b, which denies the application for a Certificate of Public Convenience and Necessity (CPCN) of Sacramento Natural Gas Storage, LLC. I have carefully considered this decision, and in the end, I am persuaded by the logic in Item 33b, which concludes that the environmental impacts and potential safety risks of the project outweigh the benefits. I agree with Commissioner Florio's decision, that the Commission does not have sufficient grounds to override the findings in the Environmental Impact Report, and on that basis, the project should be denied.

Dated July 12, 2012 in San Francisco.

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Mark J. Ferron  
Commissioner